

RA Update Report

Regional Administrator Update Report

Reporting Period : 10/22/2021(Friday) - 11/12/2021(Friday)

AR

AIR PERMITS MONITORING GRANTS BRANCH

Draft Response to Comments (RTC) Document for CAA Proposed PSD and Title V Permits and 112(g) MACT Determination - Phillips 66 Bluewater Texas

Terminal (BWTX) Deepwater Port (DWP): Information: Proposed crude oil export DWP approximately 18 miles offshore of Port Aransas, Texas. The DWP consists of two Single Point Mooring (SPM) systems to load crude carriers for international markets. BWTX proposes loading 80,000 barrels per hour (2 SPM's combined) and 384,000,000 barrels per year. On February 20, 2020, EPA issued a letter finding the PSD permit and 112(g) applications complete and on June 24, 2020, the title V permit application complete. The Public Notice (PN) began the public comment period on November 12, 2020, for the draft PSD and title V permits, as well as EPA's Notice of MACT Approval (NOMA) for the 112(g) application; the PN included a Public Hearing to be held on January 5, 2021, if requested during public comment. Based upon requests received on the permits and the NOMA, a Virtual Public Hearing was held as planned on January 5 and January 6, 2021 and the public comment period was extended to January 11, 2021. The USCG/MARA do not plan on issuing the ROD for the project until the end of this calendar year or early 2022. However, the Region provided a comprehensive briefing for the OAR senior leadership team on historical and current perspectives relating to the Subpart Y applicability issues for all DWP projects on September 27, 2021, and is now working on blueprints for all 112(g) projects regarding path forward, specifics depending on each current project's status. Although ARPE has been working on reviewing and sorting the numerous and robust comments received on the draft NOMA and draft permits, the RTC document in support of a final permit decision has not been completed. However, the context of public comments received on the BWTX project were a part of the leadership team briefing. - *Aimee Wilson (214-665-7596)*

TCEQ Laredo College Ambient Air Monitoring Site: Signature by Division Director, Air and Grants- By October 22, 2020, the ARD Division Director will approved TCEQ's request to relocate the Laredo Viduarri monitoring location to Laredo College for ambient air monitoring of particulate matter, ozone, carbon monoxide, and meteorological parameters. The landowner of the Laredo Viduarri location notified TCEQ that they were revoking the lease on the property and TCEQ discontinued that

location in September 2021. The Laredo College monitoring location is expected to be operational by December 2021. - **Joshua Madden (214-665-7151)**

Regional QA Conference Call: Event - EPA Regional Ambient Air Monitoring Partners Quality Assurance Teleconference: The EPA R6 ARPM section will host a Regional Air Monitoring Quality Assurance (QA) conference call with regional State, local, and tribal partners Thursday October 28, 2021. The Teams call will focus on QA issues as they apply to regional ambient air monitoring programs. Topic areas include but are not limited to Quality Assurance Project Plan (QAPP) writing and review, Data Quality/Data Certification activities, Technical Systems Audits (TSA's), Corrective Action Program (CAP) activities, and National Performance Audit Program / Performance Evaluation Program (NPAP/PEP) issues. - **Mark Berry (214-665-3183)**

Tribal Consultation - Annual Monitoring Network Plan 2021 - Oklahoma - SAFETEA Letter: Signature by Director, Air and Radiation: On November 1, 2021, the Director of Air and Radiation will sign a letter offering Tribal Consultation to OK Tribes regarding EPA's approval of Oklahoma's 2021 annual network plan (ANP) and acknowledgement of receipt of Oklahoma's 2021 Sulfur Dioxide (SO₂) Data Reduction Requirements (DRR) annual report. Consistent with EPA's October 1, 2020, approval of Oklahoma's request under Section 10211 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (SAFETEA) to extend the administration of the State's EPA-approved environmental regulatory programs to certain areas of Indian country, the approval of the ANP and acknowledgement of receipt of the SO₂ DRR will, if finalized as expected, apply to sources and activities in those areas of Indian country. Tribal Consultation will last for 30 days. - **Ellen Belk (214-665-2164)**

CAA Permit Applications Completeness Review - Blue Marlin Offshore Port (BMOP), Deepwater Port (DWP): Information: Proposed crude oil export DWP approximately 82 statute miles off the coast of Cameron Parish, Louisiana. The project plans to repurpose an existing natural gas subsea pipeline and offshore platform to transport crude oil to two Single Point Mooring (SPM) buoys for loading up to 365 crude oil Very Large Crude Carriers (VLCCs), or other crude oil carriers, per year. BMOP proposes loading 80,000 barrels per hour (2 SPMs combined). On October 28, 2020, EPA has found the PSD application incomplete (Oct 28, 2020), the NOMA application incomplete (Nov 9, 2020) and the Title V application incomplete (Nov 19, 2020). BMOP submitted a partial and consolidated response to the EPA's incompleteness letters on January 29, 2021, but also referenced additional supplements that were still undergoing development to respond to EPA comments. ARPE notified BMOP that we will suspend our completeness review and then re-initiate our completeness reviews of the BMOP applications when we receive the additional

materials that BMOP indicated could not be completed at that time. BMOP submitted the supplemental information for this project and EPA acknowledged receipt on September 7, 2021, by e-mail. However, the Region provided a comprehensive briefing for the OAR senior leadership team on historical and current perspectives relating to the Subpart Y applicability issues for all DWP projects on September 27, 2021, and is now working on blueprints for all 112(g) projects regarding path forward, specifics depending on each current project's status. Although ARPE issued a completeness letter for the PSD permit application on October 7, 2021 (30 day deadline based upon application submittal), we are continuing the completeness review during the time allowed for the 112(g) and title V applications (i.e., 45 days and 60 days respectively).

Ex. 5 AC/DP

2021. - *Ashley Mohr (214-665-7289)*

Delegation of Authority to Oklahoma Department of Environmental Quality (ODEQ), Certain National Emission Standards for Hazardous Air Pollutants (NESHAP) Parts 61 and 63: Information: The Federal Register Notice (FRN) proposing a Delegation Update for the Oklahoma Department of Environmental Quality (ODEQ) of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) Part 61 and Part 63 was published on August 30, 2021 (FRN signed by the ARD DD on August 18, 2021). ARPE & ORC developed the FRN as a proposal to update its delegation of the NESHAP standards, and included new language regarding sources located in Indian Country based upon the McGirt Court Decision. Consistent with the EPA's October 1, 2020, approval of Oklahoma's request under Section 10211 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (SAFETEA) to extend the administration of the State's EPA-approved environmental regulatory programs to certain areas of Indian country, the proposed NESHAP delegation update will, if finalized as proposed, apply to sources and activities in those areas of Indian country. A Tribal Consultation invitation for tribes located in Oklahoma was signed and sent to make the tribes aware of the upcoming FRN for this action and consideration of SAFETEA in this action. Tribal Consultation was requested by Sac & Fox Nation and a conference call may be scheduled in early October to address any questions or concerns the tribe may have. The Public Comment on the Proposed FRN for the Delegations Update ended on September 29, 2021, but only two comments were received, neither adverse to the update. EPA has prepared and will route a response to comments and final FRN Delegation Update for ODEQ, once the tribal consultation with the Sac & Fox Nation has occurred (being scheduled by tribal group). - *Richard Barrett (214-665-7227)*

WildEarth Guardians (WEG) Petition on New Mexico CAA Major Source TV Permitting Program[Confidential]: Information: On September 20, 2021, WildEarth

Guardians (WEG) petitioned EPA under Section 553(e) of the Administrative Procedure Act (APA) to find that NMED is not adequately administering its CAA title V permitting program. The petition stems from WEG's assertion that there are almost two dozen oil and gas major sources in the state that failed to submit a timely Title V permit application, and therefore, are improperly operating without an approved Title V permit. ARPE will obtain the necessary permit information for specific facilities listed in the petition, as well as conduct a review of our regulatory approval of the NMED permit program in comparison to how NMED is implementing the program, in order to evaluate the allegations made in the petition. ARPE is coordinating with ORC, OAQPS and OGC on this effort. - *Adina Wiley (214-665-2115)*

CAA Title V Petition Order, Oak Grove in Robertson County Texas: Information: The petition Order granting all claims on the TCEQ title V permit O2942 for the Oak Grove Generating Station, located in Robertson County, Texas, was signed by the Administrator on October 15, 2021. EPA is granting on multiple claims related to monitoring and incorporation of permits by rule. Air Permits will prepare and route the draft federal register notice announcing the Administrator's decision to the ARD DD for signature, within 30 days of the Administrator signing the Order. - *Aimee Wilson (214-665-7596)*

Delegation of Authority to Arkansas Department of Environmental Quality (ADEQ), Certain National Emission Standards for Hazardous Air Pollutants (NESHAP) Part 63: Information: ADEQ submitted a September 28, 2020, letter to EPA Region 6, formally requesting to approve its updated delegation of Part 63 NESHAP standards adopted by the ADEQ between September 17, 2014, and July 31, 2020. ARPE has developed a draft Federal Register Notice as a direct final approval of

Ex. 5 Deliberative Process (DP)

environmental groups that may have an interest in this action. The reworked package has been reviewed by ORC prior to formal routing, but an inadvertent omission of a regulatory requirement was noted in ADEQ's request letter and must be fixed prior to public notice. ARP Branch Chief contacted ADEQ management about the omission and fix needed on October 12, 2021. Routing will start after we receive the signed ADEQ letter to complete the delegations requirement. - *Richard Barrett (214-665-7227)*

CAA PSD/TV Permit and Case-by-Case MACT Determination - Sentinel Midstream Texas GulfLink (TXGL) Deepwater Port (DWP): Information: Proposed crude oil export DWP approximately 28 miles offshore of Freeport, Texas. The DWP consists of one to two platforms and two Single Point Mooring (SPM) systems to load crude carriers for international markets. TGL proposes loading 85,000 barrels per hour

(2 SPMs combined) and 365,000,000 barrels per year. Vapor capture and control are not proposed by the applicant for the permit project, but instead a Section 112(g) application (case-by-case MACT) was submitted. The Region provided a comprehensive briefing for the OAR senior leadership team on historical and current perspectives relating to the Subpart Y applicability issues for all DWP projects on September 27, 2021, and is now working on blueprints for all 112(g) projects regarding path forward, specifics depending on each current project's status. Region 6 has not yet proposed the draft permits for this project. - **Brad Toups (214-665-7258)**

Annual Monitoring Network Plans 2021 - Oklahoma: Signature by Director, Air and Radiation: By December 13, 2021, the Director of the Air and Radiation Division will sign the approval letter for EPA's review of the Oklahoma 2021 Annual Monitoring Network Plan (ANP). R6 ARPM completed its review of this submittal and prepared a response letter, including technical comments. This date has been extended due to SAFETEA consultation with Tribes. - **Ellen Belk (214-665-2164)**

Response to Public Comments on CAA PSD/TV Final Permits - Enterprise Products (SPOT) Deepwater Port (DWP): Information: Proposed crude oil export DWP located 35 miles off the coast of Brazoria County, Texas. Design includes a platform with 95% vapor emission control from the submerged fill marine loading operation. Applications were found complete and ARPE proposed the CAA PSD pre-construction and Title V operating permits for Public notice on November 20, 2019, with Public Comment lasting 30 days through December 20, 2019. A response to the one public comment letter received has been drafted prior to issuance of the final permit, but given the nature of the comment, ORC and OGC have provided input on the draft response. USCG/MARAD believes that the final EIS is now possible and estimates that a ROD may be possible in December 2021. has completed a draft Response to Comments document and once the USCG/MARAD issues their Record of Decision (ROD), we anticipate issuing the final CAA permits for the project after actual ROD issuance. Therefore, the activity date has been adjusted, based upon the proposed ROD issuance currently scheduled by USCG/MARAD for December 2021. - **Brad Toups (214-665-7258)**

DIVISION FRONT OFFICE

National Energy Advisory Team: On October 25, Region 6 will host the next National Energy Advisory Team biweekly meeting which provides an opportunity for EPA Headquarters and Regional team members to share insights and discuss projects and related energy topics. The previous meeting included an update on the STRONGER MOU development, the IOGCC annual conference and the IOGCC-EPA Taskforce

meeting as well as member led topics. The upcoming meeting will focus on the soon to be released proposed oil and gas methane regulations (40 CFR 60 OOOO/a and Emission Guideline). Additionally, we will continue with the STRONGER and IOGCC discussions as well as focus on upcoming presentation invitations and general renewable and non-renewable energy interests. EPA Region 6 will continue to issue a bi-weekly energy brief to update leadership and team members on the status of the oil and gas sector, renewables, the electric grid and other energy related areas of interest. - *Taimur Shaikh (214-665-7181)*

Ex. 6 Personal Privacy (PP)

National Energy Advisory Team meeting: On October 25, Region 6 hosted the National Energy Advisory Team biweekly meeting which provides an opportunity for EPA Headquarters and Regional team members to share insights and discuss projects and related energy topics. The meeting focused on an update on the STRONGER MOU, the IOGCC annual conference and the IOGCC-EPA Taskforce meeting as well as methane and produced water issues in the oil and gas sector. The next meeting is scheduled on November 22, 2021 and the team will revisit these aforementioned topics as well as focus on the soon to be released proposed oil and gas methane regulations (40 CFR 60 OOOO/a and Emission Guideline). Additionally, there will be a report out on the IOGCC conference and the Petroleum Alliance of Oklahoma conference. EPA Region 6 will continue to issue a bi-weekly energy brief to update leadership and team members on the status of the oil and gas sector, renewables, the electric grid and other energy related areas of interest. - *Taimur Shaikh (214-665-7181)*

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

ECD

AIR ENFORCEMENT BRANCH

2020 Clean Air Act Permian Basin Flyover Settlements and Notice of Violations:

During the week of October 25, EPA Region 6 continued developing cases related to unauthorized emissions identified during the 2020 flyover of the Texas Permian Basin. As of October 25, four Consent Agreement and Final Orders (CAFOs) have been filed and four Administrative Order on Consent (AOC) Agreements have been issued. We also continued to prepare Notice of Violations/Opportunity to Confer letters to oil and gas companies as we follow up on the 41 notification letters we sent in December. Twelve companies have received an NOVOC so far and two received 114 information request letters. EPA Region 6 also continued reviewing responses to the 44 notification letters sent in February to companies that had sites with observed emissions in the Permian and San Juan Basins in New Mexico. The letters asked companies to review flyover videos of their facilities, confirm ownership, and provide permit information. The aerial survey of the Permian Basin in west Texas, the Anadarko Basin in central Oklahoma, the San Juan Basin in northwest New Mexico, and the Permian Basin in

southeast New Mexico was carried out from August 25 to October 15, 2020. EPA has coordinated with the Texas Commission on Environmental Quality (TCEQ), New Mexico Environmental Department (NMED), and Oklahoma Department of Environmental Quality (ODEQ) regarding the initial findings from the flyover. The goal of the flyovers is to identify emission sources (i.e. unlit flares and tanks) and quickly return facilities to compliance. - **Jamie Salabogi (214-665-7533)**

Flyovers of Industrial Facilities in Louisiana : During the week of October 25, EPA Region 6 continued the compliance review process for facilities with emissions observed during the August 14 - September 24 flyovers of industrial facilities in Louisiana. In coordination with the Louisiana Department of Environmental Quality (LDEQ), EPA identified facilities that are significant sources of volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) to survey during this project. The helicopter flyovers used optical gas imaging to survey 5,181 tanks, 226 flares, and 62 other sources at over 150 facilities. Leaks were detected from 47 unique sources at 28 different facilities. On September 29, 2021 EPA sent notification letters and links to videos to 13 facilities. We received responses from all 13 facilities, however two were misidentified. EPA will send notification letters to 17 additional facilities in early November. We are coordinating with LDEQ on any additional investigations and follow-up actions. The goal of the industrial flyovers is to identify significant unauthorized or underreported emissions of VOCs and HAPs. The excess emissions targeted through this project have the potential to impact air quality in nearby environmental justice communities. - **Sarah Frey (214-665-6499)**

EPA continues SPod Monitoring around the Denka facility: EPA continues to monitor the ambient air around Denka's neoprene manufacturing facility through OECA's Continuous Air Monitoring Program (SPod) and publishes the chloroprene data on its public website. The SPods, located at the Fifth Ward Elementary School, East St John High School, Chad Baker Street, Ochsner Hospital, Acorn/Hwy 44, and the Levee, continuously measure ambient VOC concentrations. Any exceedance of certain VOC levels triggers the collection of a 24-hour air sample via summa canister and a subsequent lab analysis of that sample. On July 23, 2020 a firmware update that allows the SPods to set a dynamic threshold trigger was installed at all SPod locations. The trigger is set at some level above the raw PID data after a baseline removal algorithm has been applied. The trigger levels are set at 94 ppb at Fifth Ward Elementary School, 69 ppb at East St John High School, 61 ppb Chad Baker Street, 69 ppb at Ochsner Hospital, 116 ppb at Acorn/Hwy 44, and 100 ppb at the Levee. Using the dynamic trigger, 196 canisters have been triggered and analyzed. Using the dynamic trigger, the highest chloroprene result thus far is 17.588 µg/m3 at the Chad Baker location. Starting on October 1, 2020, any continuous air monitor that has not sampled within seven days will be manually triggered as an instrumentation quality check. 114 canisters have been manually triggered and analyzed since October 1, 2020 with the highest manually

triggered result being 15.239 µg/m3 at the Chad Baker location on December 2, 2020. EPA extended the Operational Phase of the SPod Monitoring to collect monitoring data during the 2020 facility turnaround and monitoring is projected to continue through November 2021. The facility's 2021 Fall turnaround, began on September 20, 2021 and is anticipated to be completed on October 29, 2021. - *James Leathers (214-665-6569)*

WASTE ENFORCEMENT BRANCH

January Environmental Services - DOJ Referral[Confidential]: On November 30, 2020, DOJ and ODEQ filed a Complaint against January Environmental Services, Inc. (JES) and Cris January in the Western District of Oklahoma alleging nine claims for relief. On Sept. 17, 2021, the government filed an amended complaint to include January Transport, Inc. (JTI) as an additional defendant. The Scheduling Order requires the parties to complete discovery by April 1, 2022 and assigns the matter to the July 2022 trial docket. The government filed Motion for Partial Summary Judgement (MPSJ) regarding Defendants' status as a used oil processor on August 19. Defendants' filed their response and a counter MPSJ asking the judge to find that Defendants are not processors, and the government filed its response on Sept. 16. On October 13, 2021, the Court denied the government's MPSJ holding that "by the narrowest of margins, that defendants' submissions are sufficient to create material disputes of fact which preclude summary judgment at this time." The Court further stated that "[Defendants] remarkable combination of loose language, colloquial expressions, new insights, and regained memories leaves the court extraordinarily skeptical of defendants' position here and, if it was the court's job to pass now on the credibility of defendants' offerings, plaintiffs' motion would be granted." The Court further added that it "does not rule out the possibility of later sanctions of some sort if defendants' various affidavits and other submissions ultimately prove to be as unjustified as they are presently implausible." Finally, the Court ruled that the defendants' cross motion was "frivolous" and denied their motion without further explanation. This case involves violations of the used oil and hazardous waste regulations. In September 2018, the EPA Region 6 referred an enforcement action against JES following a joint ODEQ/EPA inspection of JES' Oklahoma City, OK facility. A follow-up inspection in 2019 confirmed continuing violations of the used oil regulations under RCRA and found the facility continues to receive and store hazardous waste without a permit. After many months of negotiations, the two sides remained very far apart, and litigation commenced. - *Debra Pandak (214-665-7565)*

Ex. 5 DP / Ex. 7(A)

Ex. 5 DP / Ex. 6 / Ex. 7(A)

Allied Bioscience[Confidential]: On October 25 & 26, 2021, Allied BioScience submitted revised labeling to be reviewed by Region 6, OECA & OPP to assure future export labeling is FIFRA compliant. Additionally, the case team received the Economic Benefit Calculation from third-party consultant Industrial Economics and has finalized the penalty calculation for the various violations of FIFRA. The case team drafted a

Ex. 5 AC/DP

Ex. 5 AC/DP

parties. Background: On July 8, 2021, Region 6 issued a Stop Sale, Use and Removal Order to Allied Bioscience for their SurfaceWise 2 product in conjunction with OPP revoking their Section 18 emergency exemptions. Under the SSURO, Allied Bioscience must immediately cease the sale, use, or removal of the Product under its ownership, control, or custody, wherever such Product is located, except in accordance with the provisions of the Order unless they receive written approval from EPA for specific circumstances. - *Margaret Osbourne (214-665-6508)*

Ex. 6 Personal Privacy (PP)

LAS

LCR

RCRA BROWNFIELDS AND SOLID WASTE BRANCH

Veolia, Port Arthur - PFAS Incineration Discussion with TCEQ and HQ:

Information: On October 29, 2021, Region 6 LCRD RCRA Permits and Solid Waste staff participated in a conference call with TCEQ and OECA to discuss the proposed incineration by Clarke Industries of pesticide containers contaminated with the PFAS in a hazardous waste incinerator at the Veolia, Port Arthur, TX facility. Region 6 LCRD staff briefly discussed the issue with TCEQ a few weeks ago to see if they were already aware, which they were not. This is an opportunity for OECA to explain the Clarke pesticide enforcement case to TCEQ as well as Clarke's plan for the containers to go to Veolia. - *Harry Shah (214-665-6457)*

UPRR Former Houston Wood Preserving Works Site/Kashmere Gardens Area:

Information: On October 21, 2021, EPA received UPRR's response to Barry Breen's letter requesting that they respond to the 63 questions from Mayor Turner. The City of Houston and the Harris County Attorney's office were copied on the response. The response has also been posted to the UPRR website. Region 6 LCRD staff conducted an initial review of the 185-page response, as well as skimmed the hundreds of supporting documents submitted separately to determine if UPRR responded to the questions and if there were any red flags in the information submitted.

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

R6 LCRD staff participated in a call on October 26, 2021, with HQ OLEM and OGC staff to discuss the initial review in advance of a briefing with Deputy Administrator McCabe held on October 27, 2021. HQ OPA is developing a webpage to make the response available to the public. R6 LCRD staff have provided input on that webpage. The draft letter transmitting EPA comments on the proposed UPRR permit is pending input and discussion with HQ OLEM and OEJ, but is currently on hold while the agency reviews the UPRR response. TCEQ has extended the public comment period until a second public meeting is held, which may be in January or February 2022. On October 25, 2021, R6 LCRD and Superfund (risk assessor) staff participated in a call along with TCEQ and TDSHS staff with the Texas A&M (TAMU) professor regarding the PAH study that they conducted. TAMU is scheduled to speak with community members during an Impact Fifth Ward community meeting on October 28, 2021, but stated that they will not be discussing the draft report or the results of the study as it has not yet gone through peer review and they recognize that it may be misunderstood in its current form. They instead will focus on talking about the benefits of partnerships, working with stakeholders, and also next steps which they explained involves conducting a door-to-door health survey, and collecting up to 500 samples from homes including drinking water and paint for lead analysis, and backyard soil and indoor particulate dust wipes for PAH and heavy metals. TAMU expressed interest in continuing communication and collaboration with the agencies regarding the study, and requested assistance from the health department in communicating the results with the community. EPA is working with the City of Houston to schedule another community meeting for EPA's contractor, Skeo, to give an abbreviated version of their technical presentation that they gave previously this past June. They will be listening to the Oct 28 Impact meeting to hear questions/concerns raised to consider for their presentation. - **Melissa Smith (214-665-7357)**

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

NM Requests for PFAS Considerations: Information: On October 26, 2021, EPA issued a press release announcing its action on the New Mexico's Governor's petition for action on PFAS. The announcement identified plans to initiate rulemaking for two new actions under the hazardous waste laws which are: 1) will initiate the process to

propose adding four PFAS chemicals as RCRA Hazardous Constituents under Appendix VIII, by evaluating the existing data for these chemicals and establishing a record to support such a proposed rule; and 2) will clarify in EPA regulations that the RCRA Corrective Action Program has the authority to require investigation and cleanup for wastes that meet the statutory definition of hazardous waste, as defined under RCRA section 1004(5). The response prepared by HQ FFRRO and OLEM/ORCR staff to the request from Mr. Art Schaap with Highland Dairy to designate the area surrounding the dairy as Superfund site is still pending. The draft response to NMED Secretary Kenney is also still pending at HQ. - **Melissa Smith (214-665-7357)**

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

UST POLLUTION PREVENTION PESTICIDE AND LEAD BRANCH

REGION 6 PRE-SFIREG MEETING FALL 2021: On October 19-21, 2021, Pesticides staff hosted the Fall Pre-State FIFRA Issues, Research and Evaluation Group (Pre-SFIREG) meeting with Region 6 state departments of agriculture and tribes. The meeting serves both to connect EPA with its regulatory partners to provide better support for their programs, and to discuss and prepare Region 6 topics of concern for raising at the Full (nationwide) SFIREG being held December 6 - 8, 2021. Agenda topics included Certification and Training (C&T) updates, enforcement efforts, Worker Protection Standard (WPS) updates, pesticide imports, budget updates, and more. Additionally, the Region 6 Ag Advisor was able to provide announcements and updates on various agency activities. State and tribal partners also provided updates on their programs, and requested a few action items for EPA to follow up on including pesticide-treated pet collar incident reporting, improved communication on 24(c) activity and docket notices, additional information shared on Endangered Species Act Pesticide Use Limitation Areas (PULAs), and clarification on C&T plan comments. The next Pre-SFIREG will be hosted by the Louisiana Department of Agriculture and Forestry in April or May 2022. - **Stephen Angle (214-665-7369)**

MSD

ORA

ORC

AIR ENFORCEMENT BRANCH

Denka Performance Elastomer, LaPlace, LA: The facility is currently in turnaround and plans to return to production, post-Hurricane Ida, by the end of October. On

October 8, Denka stated that it still cannot commit to a specific date to begin fenceline monitoring (required by EPA's July 2021 Section 114 Information Request) due to several timing issues, including the need for: a final sampling and analysis plan from Denka's lab vendor; a new internal SOP and associated training; access permissions from landowner DuPont; and shareholder approvals. On October 25, EPA notified Denka that its responses to the 114 Information Request continue to be inadequate and requested additional information, including the qualifications of Denka's lab vendor; a plot plan of proposed monitoring locations; and a timeframe by which Denka expects the monitors to be operational. EPA requested a response from Denka by November 5. EPA continues to monitor the air around the facility using a network of six SPod monitors. Since the program began in March 2020, 196 canisters have been dynamically triggered and analyzed, with the highest chloroprene result being 17.588 micrograms per cubic meter (24 hr average) at the Chad Baker location. Since October 1, 2020, 114 canisters have been manually triggered and analyzed with the highest manually triggered result being 15.239 micrograms per cubic meter also at the Chad Baker location. - *Justin Lannen (214-665-8130)*

MULTIMEDIA COUNSELING BRANCH

EPA to Defend Redesignation Actions for the Houston-Galveston-Brazoria and the Dallas-Fort Worth Areas; Will Remand Action on 185 Fees: EPA finalized two separate actions for the redesignation of the Houston-Galveston-Brazoria (HGB) and the Dallas-Fort Worth (DFW) areas on February 14, 2020 and April 6, 2020 respectively. EPA found that both areas have met the statutory redesignation criteria for the revoked 1979 1-hr and the 1997 8-hr ozone standards, and terminated anti-backsliding obligations for both areas. EPA also approved the Texas Severe ozone nonattainment area failure to attain fee program for the HGB area as an equivalent alternative program to address CAA 185 requirements. Sierra Club, Downwinders at Risk, and Texas Environmental Justice Advocacy Services (Petitioners), filed a petition for review of the two final actions with the United States Court of Appeals, District of Columbia Circuit (DC Circuit or Court) on April 14, 2020. After parties filed their respective briefs, President Biden signed Executive Order (EO) 13990 "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis." 86 FR 7037 (Jan. 25, 2021). The EO identified the two challenged actions as falling within its scope, and as such required that EPA review the actions. Following the EO, the Petitioners and EPA filed a joint motion to hold the case in abeyance to provide an opportunity for the new EPA leadership to review the challenged actions. EPA staff briefed Office of Air and Radiation (OAR) management on October 21, 2021. OAR management agreed with the EPA staff recommendation to continue to defend our functional redesignation actions on both DFW and HGB, and to ask the court for a remand on our action on the CAA 185 fee program. The next status report to the Court is due by November 4, 2021. ORC will meet with OGC and DOJ on October 27, 2021

to discuss next steps and how to proceed with the litigation. - *Ndubisi Ogbodo (214-665-6733)*

EPA to Meet with Environmental & Citizen Groups to Discuss Concerns with Title V Permit Renewal for GAF Facility in West Dallas: On October 12, 2021, a coalition consisting of 17 environmental and citizen groups contacted EPA Region 6, requesting a meeting to discuss the groups' concern with the Clean Air Act Title V permit renewal for the GAF Materials Corporation (GAF) shingle manufacturing facility in West Dallas. The State of Texas has an EPA-approved program to issue Title V operating permits for facilities in the State of Texas. The Texas Commission on Environmental Quality (TCEQ) is currently processing the GAF permit renewal: TCEQ held a public meeting on July 29, 2021 and offered a public comment period. The public comment period has closed, and TCEQ's next steps (prior to issuing the renewed permit) include responding to the public comments and providing EPA with a proposed permit subject to a 45-day review period. On October 22, 2021, EPA Region 6 sent a response letter agreeing to a meeting; the location, time, and date have not been set yet. It is expected that the groups will raise technical issues, as well as environmental justice concerns, as the GAF facility is located within a half-mile of two public schools, a daycare center, and residential neighborhoods. - *Joshua Olszewski (214-665-2178)*

RCRA/TOXIC ENFORCEMENT BRANCH

Allied BioScience Status Update: On October 25 - 26, 2021, Allied BioScience submitted revised labeling to be reviewed by Region 6, OECA and OPP to assure future export labeling is FIFRA compliant. The case team further received the Economic Benefit Calculation from third-party consultant Industrial Economics and has finalized the penalty calculation for the various violations of FIFRA. Background: Background: On July 8, 2021, Region 6 issued a Stop Sale, Use and Removal Order to Allied Bioscience for their SurfaceWise 2 product in conjunction with OPP revoking their Section 18 emergency exemptions. On October 5, 2021, Allied BioScience submitted the label and labeling that would accompany future exports of SurfaceWise 2 ("the Product"):

Ex. 5 DP / Ex. 7(A)

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

- *Lawrence*

Pittman (214-665-8381)

Judicial Mediation Taking Place - January Services - Oklahoma City, OK:

Representatives from EPA and DOJ are set to attend a court-ordered mediation Nov. 2-3 in Oklahoma City, OK, in the matter of the United States vs. January Services Inc. in the U.S. District Court for the Western District of Oklahoma as well as depositions.

Background: On November 30, 2020, DOJ and ODEQ filed a Complaint against January Environmental Services, Inc. (JES) and Cris January in the Western District of Oklahoma alleging nine claims for relief under RCRA. A Scheduling Order requires the parties to complete discovery by April 1, 2022 and assigns the matter to the July 2022 trial docket. - *Angela Hodges-Gott (214-665-2796)*

SED

ASSESSMENT ENFORCEMENT BRANCH

Lane Plating Superfund Site, Dallas TX - Settlement: Information: On October 22, the SED Director approved the Cost Recovery Decision Document (CRDD) for the Lane Plating site, a former plating facility that operated from 1932 to 2015. EPA Region 6 filed a proof of claim in the Lane Plating bankruptcy on July 16, 2016. EPA perfected a CERCLA Section 107(l) lien on the Site property in August of 2017. On May 27, 2021, the Lane Plating case was closed, after Lane Plating's remaining \$3,400 went towards the trustee's expenses. The CRDD addresses the \$3.3M in past costs. - *Angienell Clarke (214-665-8134)*

Malone Services Co. Superfund Site, Texas City, TX - Settlement: Information: On October 27, the SED Director signed the Consent Decree for \$2,987,354 in past costs for the Malone Services site to be paid by Sea Lion Technology, Inc., and Sea Lion, Inc. - *Angienell Clarke (214-665-8134)*

Henryetta Iron & Metal Superfund Site, Henryetta OK Cost Recovery Decision : Information: On October 27, The SED Director approved the Cost Recovery Decision Document to write-off the \$2,000,157.85 in past costs associated with the Henryetta Iron & Metal site. The Site is on the NPL and additional remedial work is planned. The Site is a former metal scrapyard and metal recovery facility which operated from the 1930's to the mid-2000s and no viable parties have been identified. The two individual

PRPs have an inability to pay and all companies associated with Site are dissolved and/or defunct. - *Stephen Phillips (214-665-2702)*

EMERGENCY MANAGEMENT BRANCH

Vermiculite Products Site, Houston, TX - Removal Action: Information: Removal activities continue at the Vermiculite Products site. To date, over 7,500 tons of asbestos-contaminated soil have been removed from the site with approximately 15,500 more tons to be removed. Dust abatement work began on the Process Building B1 involving power washing, scraping, and wiping down all surfaces contaminated with asbestos-dust. The building is sealed up and under negative pressure. A third party licensed abatement consultant is onsite full-time to oversee the abatement company's work and monitor indoor and outdoor air around the building. The estimated date for completing the asbestos dust abatement is January 21, 2022. - *Mike McAteer (214-665-7157)*

Gretna Plating Site, Gretna, LA - Removal Action: Information: EPA and its contractors will re-mobilize to the site as soon as the lab-profiling results are received to complete shipment of waste for disposal. Once all waste has been shipped off site, EPA's contractor will conduct sampling of the building to determine if the structure has been contaminated. - *Philip Rouse (214-665-3187) (Cell-469-431-8856)*

Globe Union, Inc Site, Garland, TX - Removal Action: Information: Removal activities continue at the Globe Union site. Eight of the 11 properties have been excavated and all 8 of those properties have been backfilled. EPA collected confirmation samples from completed excavated areas prior to backfilling to ensure that all contamination was removed. EPA conducted air monitoring at the perimeter of excavation work zones. No air monitoring measurements exceeded the site-specific allowable particulate levels at any of the excavation work zones. There is one community member that continues to believe that EPA is not sharing all site information, despite that EPA has established a website on Response.gov and distributed a Site Update to keep the public informed of EPA's response effort. - *Krystal Stotts (214-665-3122)*

Texas Vermiculite Site, Dallas, TX - Removal Action: Information: Now that the Administrative Order on Consent (AOC), which covers both the assessment and removal action for the Texas Vermiculite site, has been executed, W.R. Grace, the Responsible Party (RP), will begin the process of seeking access agreements from all landowners within the Site Investigation Boundary. EPA has mailed approximately 65

public fact sheets which will provide general information about the history of the site and describe the upcoming assessment and potential removal work. EPA will also make contact with members from the Dallas Council Ward 6, Texas Commission on Environmental Quality (TCEQ), Dallas County Health Department, Dallas Independent School District (DISD), Texas Department of State Health Services (TDSHS), Dallas Department Environmental Quality & Sustainability ("GreenDallas"), and Agency for Toxic Substances and Disease Registry (ATSDR) to provide notice of the upcoming assessment work. The goal is to obtain access agreements from the majority of property owners by November 19, and start assessment sampling by December 17. - **Mike McAteer (214-665-7157)**

REMEDIAL BRANCH

Patrick Bayou Superfund Site, Deer Park, TX - Meeting with Responsible Parties:

Information: On October 22, EPA held a conference call with the Joint Defense Group (JDG), Responsible Parties (RP) for the Patrick Bayou site. The primary objectives of the meeting were to discuss site updates, status of supplemental Remedial Investigations/Feasibility Studies, and EPA's plan to initiate a Non-Time Critical Removal (NTCR) of Polychlorinated Biphenyl (PCB) sediment hot spots. The RP's collected new sediment data last fall, which identified sediment hotspots and supported EPA's plan to proceed with a NTCR. - **Laura Hunt (214-655-9729)**

Lane Plating Superfund Site, Dallas, TX - CAG Request Residential Health

Assessment: Information: On October 13, the Lane Plating Community Advisory Group requested the EPA to engage the Agency for Toxic Substances and Disease Registry (ATSDR) to conduct a Residential Health Assessment and to conduct additional residential soil sampling. Previous residential sampling results exceeded EPA Regional Screening Levels for arsenic and hexavalent chromium. EPA will contact ATSDR for a consultation. - **Kenneth Shewmake (214-665-3198)**

Eagle Picher Carefree Battery Superfund Site, Socorro, NM - Virtual Public

Meeting: Information: On October 26, EPA, in cooperation with the New Mexico Environmental Department (NMED), held a virtual informational public meeting on Superfund Community Involvement Groups (CAG) for the Eagle Picher Carefree Battery Site. The CAG concept was introduced to the community and educated them on the CAG's purpose and their relationship with EPA. EPA and NMED shared how CAGs are generally structured and how they operate, and discussed potential membership models. Also, a brief update on site activities was given. About 30 individuals were in attendance. - **Nichole Foster (214-665-7248)**

Tar Creek Superfund Site, Quapaw, OK - Virtual Tar Creek Conference:

Information: On October 27, EPA, along with the Oklahoma Department of Environmental Quality, the Quapaw Nation, and EPA Region 7, participated in the Tar Creek Conference hosted by the Local Environmental Action Demanded Agency (LEAD Agency). Presentations related to Operable Units 2, 4, and 5 were presented as well as updates on work being conducted in Kansas and Missouri by Region

7. - ***Katrina Coltrain (214-665-8143)***

WD

DIVISION FRONT OFFICE

Coffee Creek and Mossy Lake: ARKANSAS CLEAN WATER ACT (CWA) SECTION 303(c) WATER QUALITY STANDARDS (WQS) ISSUES – COFFEE CREEK AND MOSSY LAKE The lack of appropriate WQS for the entirety of Coffee Creek and Mossy Lake as required by the CWA and associated concerns with National Pollution Discharge Elimination System (NPDES) permits have been an issue of concern since the mid-1980s. These issues have intensified in recent years, particularly with the filing of a petition by the Tulane Environmental Law Clinic (TELC) on behalf of the Ouachita Riverkeeper (September 10, 2015) requesting EPA promulgate new/revised WQS for Coffee Creek/Mossy Lake. In addition, this group has also filed Complaint No. 27-16-R6 under Title VI of the Civil Rights Act of 1964 against the Arkansas Division of Environmental Quality (ADEQ) associated with both WQS and NPDES concerns. There was a Senior Leadership discussion between ADEQ and EPA Region 6 on Tuesday, October 19, 2021 regarding specifically the WQS concerns as they related to ADEQ's plans to revise Regulation (Rule) 2 and their attempts to redefine Coffee Creek to what could exclude WQ protections. There state regulation changes would directly impact water quality protection in the Georgia-Pacific Crossett permit. The Region 6 Water Division is actively working with ADEQ and with the Headquarters External Civil Rights Compliance Office (ECRCO) to ensure appropriate WQS are proposed by ADEQ and adopted by the Arkansas Pollution Control & Ecology Commission. - ***Maria Martinez (214-665-2230) (Cell-214-437-9803)***

PERMITTING AND WATER QUALITY BRANCH

TPDES Permit TX0138347 - Port of Corpus Christi Authority (desalination plant):

In response to the EPA's Notice of Termination Permit Review Waiver letter dated September 20, 2021, that rescinded its waiver of review of the draft TPDES permit for the Port Authority of Corpus Christi, TX0138347 (and all desalination plants) the EPA, per the request of the applicant, plans to conduct two meetings with representatives for

the Port Authority of Corpus Christi. The proposed plant (and its discharges) has raised concerns and opposition from third party entities regarding the proposed effluent discharges and the potential impact to the receiving waterbody (Corpus Christi Bay) and aquatic life. The EPA commenced its formal review of the revised draft TPDES permit (documents provided by the TCEQ Oct. 1, 2021), with an initial 45 day review deadline of November 15, 2021. The draft permit is also undergoing the contested case hearing process in the State Office of Administrative Hearings (SOAH). The permittee (Port Authority of Corpus Christi) has requested a meeting with Region 6. The date of the meeting is still pending. - *Kilty Baskin (214-665-7500)*

TPDES Permit TX0138347 - Port of Corpus Christi Authority (desalination plant):

The EPA's submitted (on October 22, 2021) a response to the TCEQ to clarify the request of documents relating to the draft permit and application for the proposed desalination plant, operated by the Port of Corpus Christi Authority (TPDES Permit No. TX0138347) as cited in its Notice of Termination Permit Review Waiver letter dated September 20, 2021. The TCEQ requested this clarification in its response letter dated September 30, 2021. In that response they have provided the EPA accessed (on October 1, 2021) to those documents (i.e., draft permit and application, responses to comments, etc...). The EPA commenced its formal review of the revised draft TPDES permit (documents provided by the TCEQ Oct. 1, 2021), with an initial 45 day review deadline of November 15, 2021, and will notify the TCEQ if additional information is needed during the permit review process. The proposed plant (and its discharges) has raised concerns and opposition from third party entities regarding the potential impact from the effluent discharges to the receiving waterbody (Corpus Christi Bay) and aquatic life. The draft permit is also undergoing the contested case hearing process in the State Office of Administrative Hearings (SOAHs). - *Kilty Baskin (214-665-7500)*

TPDES Permit TX0138347 - Port of Corpus Christi Authority (desalination plant):

On Tuesday, October 26, 2021, the EPA participated on a TEAMs conference call with representatives (attorneys, consultants, environmental and technical experts and counsel) for the Port of Corpus Christi Authority (POCC). The objective of the call was to initiate open communications regarding the proposed project and operations of their desalination plant, located on Harbor Island, Corpus Christi Bay. A presentation provided information regarding the plants proposed operation and additional studies and modeling that was conducted to assess potential impacts of the proposed discharge, to the entire Bay system and aquatic life. Based on their assessment, they conclude that the proposed location, Harbor Island, is the most appropriate site within the Corpus Christi Bay for the proposed desalination plant. In addition, they also conclude, that there will be no impacts to the receiving water body (Corpus Christi Bay system) and aquatic life. The EPA informed the representatives for POCC, that they will coordinate with the TCEQ as they are the primary permitting authority. The EPA anticipates of possibly engaging all parties (TCEQ, EPA, and POCC) on a future conference call. The

proposed plant (and its discharges) has raised concerns and opposition from third party entities regarding the proposed effluent discharges and the potential impact to the receiving waterbody (Corpus Christi Bay) and aquatic life. The EPA commenced its formal review of the revised draft TPDES permit (documents provided by the TCEQ Oct. 1, 2021), with an initial 45 day review deadline of November 15, 2021, however, the EPA and will request an extension for review. The draft permit is currently undergoing the contested case hearing process in the State Office of Administrative Hearings (SOAH). - ***Kilty Baskin (214-665-7500)***